

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JAMES ERNEST DICKERSON,

Plaintiff,

v.

SERGEANT KAMMERZELL,

Defendant.

Case No. C06-5263 FDB/KLS

REPORT AND  
RECOMMENDATION

**NOTED:**  
**November 3, 2006**

This civil rights action been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. §§ 636(b)(1) and Local MJR 3 and 4. The Court is advised by Plaintiff that he no longer wishes to pursue this action.

**DISCUSSION**

Plaintiff has filed a motion to voluntarily dismiss his action pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, as he is no longer in close custody and is now able to receive the religious material made the subject of his Complaint. (Dkt. # 16).

Rule 41(a)(1) of the Federal Rules of Civil Procedure provides, in pertinent part:

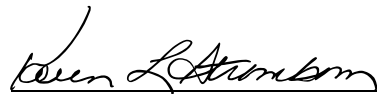
[A]n action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs . . . .

**CONCLUSION**

The court should dismiss this action as plaintiff has voluntarily requested dismissal. No answer or motion for summary judgment has been filed by the defendant. A proposed order accompanies this Report and Recommendation.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Report and Recommendation to file written objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **November 3, 2006**, as noted in the caption.

DATED this 3rd day of October, 2006.



Karen L. Strombom  
United States Magistrate Judge